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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Deferral of Licensing of

MTA Commercial Broadband PCS Licensing

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) ET 92-100  
) PP 93-253

To: The Commission

EMERGENCY MOTION TO DEFER MTA PCS LICENSING;  
ACTION REQUESTED WITHIN 30 DAYS

Communications One, Inc., by its attorney, hereby seeks deferral of the licensing of winning bidders in the Commission's ongoing Broadband MTA PCS auction.<sup>1</sup> In support whereof, the following is respectfully submitted:

1) Communications One, Inc. is a woman controlled communications company which intends to participate in the Entrepreneur Block auctions for the BTAs. In order to maintain a fair level of competition, recent events require the Commission to defer licensing the winning Broadband PCS MTA bidders.

2) On February 24, 1995 the Commission issued a News release in which the Commission chairman was quoted as saying that "'the timing of the [entrepreneur] auction is now in the hands of the court.'" The Chairman's comments were made in response to a petition for review of the designated entity rules filed in the U.S. Court of Appeals by Telephone Electronics Corporation. The

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<sup>1</sup> Communications One, Inc. is not seeking to interrupt the ongoing MTA Broadband auction; that auction should proceed to conclusion.

News release indicated that the FCC has requested the Court to consider the petition for review on an expedited basis.<sup>2</sup>

3) From the Chairman's comments it is apparent that the Commission intends to delay the Entrepreneur Block auction pending the outcome of the Telephone Electronics Corporation litigation. While the Commission's rules permit the Commission to delay its licensing processes on its own motion pending court review, such delay is uncommon.

4) The Chairman was further quoted as saying that "every day of delay will cost the economy, the Treasury, the entrepreneurs, and consumers millions of dollars and countless opportunities." Similarly, every day of headstart given to the MTA auction winners will cost the Entrepreneur Block "millions of dollars and countless opportunities." Accordingly, it is manifestly unfair to give the MTA auction participants an even longer construction/marketing headstart vis-a-vis the Entrepreneur Block participants.

5) The Commission established the Entrepreneur Block to give smaller, disadvantaged companies the opportunity to participate in the PCS industry. Unfortunately, by scheduling the Entrepreneur Block auction after the MTA auction, the Commission made a policy decision to impose a time-to-market disadvantage upon the very small, disadvantaged companies it purportedly sought to promote.

6) The Commission's recent decision to postpone the Entrepreneur Block auction pending a decision in the Court compounds the

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<sup>2</sup> We are unaware as to whether the Court has acted upon the Commission's motion for expedited review. However, even expedited review would not ensure that entrepreneur block BTA licenses would be granted contemporaneously with MTA licenses.

problems caused by its earlier time-to-market policy error. A level field of competition is required. The richest companies should not be given an undetermined, open-ended headstart over small, disadvantaged companies.

7) To remedy the unfair headstart advantage, the Commission must defer licensing the MTA auction winners until after the Entrepreneur Block auction has been conducted. All Broadband PCS licenses in any market area should be awarded simultaneously.

8) The Commission has the legal authority to eliminate the headstart, a headstart which the Commission's News release acknowledges already exists. Rather than pleading with the Court to handle the petition for review as promptly as possible, the Commission must demonstrate its commitment to fair competition and to the promotion of disadvantaged market participants by deferring issuance of the MTA Broadband licenses. The future of fair PCS competition lies in the Commission's hands, not the Court's.


9) Finally, no one is sure when the ongoing MTA Broadband auction will be completed. The auction could be terminated at any time. Thus, we respectfully request that the Commission announce a deferral of MTA licensing within the next 30 days. Other legal alternatives are available to delay the MTA licensing, however, Communications One, Inc. prefers that the Commission maintain jurisdiction over the timing of the issuance of the MTA licenses and the conduct of the BTA auctions.<sup>3</sup>

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<sup>3</sup> We note that the Commission routinely schedules license issuance without the need to receive comments from the public. Indeed, the instant matter presents an instance in which the Commission has decided to delay Entrepreneur Block BTA licensing without any public comment. To the extent that the Commission deems that the instant  
(continued...)

WHEREFORE, in view of the information presented herein, it is respectfully requested that the issuance of the MTA Broadband licenses be deferred as discussed above.

Respectfully submitted,  
COMMUNICATIONS ONE, INC.

  
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<sup>3</sup>(...continued)

pleading requires a public notice and comment period before MTA licensing may be deferred, we request that comments be required to be filed within 5 business days of the public notice.